

Law Enforcement News

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Is "3 strikes" a pyrrhic victory?

Calif. A-G says data show the benefit of tough sentencing law, but the cost is a CJ system logjam

By Jacob R. Clark

California's tough "three strikes and you're out" law, which was one of the first in the nation to provide mandatory life terms for repeat felons, recently was credited by state Attorney General Dan Lungren for providing the "firepower" behind a 6.5-percent overall drop in crime statewide during 1994, including a 6.3-percent dip in violent crime.

"I think this new crime rate information is further evidence of the public safety firepower of the 'three strikes and you're out' law," Lungren said when 1994 crime statistics were released in July. "Something very positive is happening here in California, and I don't think it's mere coincidence. We're doing some things right in the fight against crime."

Matt Ross, a spokesman for the Attorney General, said the possibility of life in prison has put career felons on notice. "We've noticed that last year was the first in about 20 years that we actually had fewer parolees come into our state from other states than left

the state. That signals to us that there's a trend that people would rather leave than avoid the potential costs."

Cost/Benefit Analysis

But what are the costs to the state's criminal justice system? In its short life, the law already has had serious ramifications, particularly in Los Angeles County, the state's largest jurisdiction. Officials there told Law Enforcement News that the law has created a logjam in criminal courts as defendants opt for trials in the hope of avoiding mandatory life sentences. Jails are also at capacity, according to Sheriff's Department officials, requiring the agency to release misdemeanants charged with such serious offenses as drunken driving and simple assault and weapons offenses.

"I see it slowing down, but I don't see it as getting one bit better," said Division Chief Paul Myron of the Los Angeles County Sheriff's Department, who is responsible for jails in the agency's South Division and also oversees all prisoner intake and re-

leases. "I see this as a way of life that's going to be with us for some period of time unless we can open more jails."

With precarious financial problems facing Los Angeles city and county, that's not going to happen soon, Myron said. Three consecutive years of budget cutbacks have left the Sheriff's Department unable to fill nearly 1,000 deputy positions left vacant through attrition, while a brand-new, 4,000-bed jail remains empty because the county doesn't have the funds needed to staff it.

"This is what the people of the state of California are requesting, and we are public servants," said Sandi Gibbons, a spokeswoman for the county District Attorney's Office. "The bottom line is that they're going to have to pay for it. It's a very expensive law, but that's what the people voted for."

The habitual offender statute that has become known nationwide as "three strikes and you're out" was approved in California in March 1994. And while many states have approved similar legislation since the first habitual of-

fender law was passed in Washington state, California's is tougher than most because it provides for sentences of 25 years to life for two-time "serious or violent" felons upon conviction for any third felony. In addition, a defendant previously convicted of any other felony must serve time in state prison — and can be sentenced to serve twice the time a first-time offender might have received.

The Rand Alternative

In September 1994, a study by the Santa Monica-based Rand Corporation predicted that the law would reduce serious felonies committed by adults in California by 22 percent to 34 percent in five years — at a cost of an extra \$4.5 billion to \$6.5 billion in current dollars. The study went on to suggest that a more cost-effective way of reducing crime would be to increase sentences for all serious offenders, "even first-timers who are near the beginning of their criminal careers — and pay for it by not imprisoning many

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DNA analysis in high gear, with demand for tests rising & DoJ funding new labs

By Stephen Donohue

After long battles in the courts to prove its worth as a legitimate forensic tool, DNA "fingerprinting" has slowly emerged as one of the most powerful weapons in the criminal justice system.

Since 1987, when it was used to convict a Florida man of rape, DNA testing has proved to be much more than a prosecutorial aid. In rape cases, where DNA testing is used more often than for any other crime, defense attorneys have used the tests not only to clear their clients as suspects, but also to exonerate men previously convicted of rape.

Clear evidence that DNA can help convict rapists as easily as it can exclude suspects has helped DNA testing in rape cases to become so commonplace that it is beginning to overload the capabilities of laboratories. Prose-

cutors are ordering the tests in cases that they never would have in the past because they're finding that in addition to juries demanding the tests, there is a good chance they may have the wrong man.

One factor behind the increased testing may be FBI statistics showing that in one out of every three DNA tests the FBI laboratory conducts for rape cases, the sample taken from the suspect does not match blood or semen evidence from the crime scene. Since those suspects were identified by eyewitnesses — usually the victim — DNA testing proves what has long been

suspected, that eyewitness testimony is not very reliable.

"What we're finding increasingly now is that DNA is being used even in the situation where there is good eyewitness identification," said Clay Strange, the DNA unit director for the National District Attorneys' Association. While prosecutors may be ordering DNA tests even in cases of acquaintance rape, which would have been considered prosecutorial overkill a few years ago, Strange said there are many factors behind the decision other than the chance that they charged the wrong man.

Strange said one of the main reasons DNA testing is ordered more frequently is to make the victim feel less alone. "That victim is still going to get on that stand and be tough and point the finger, but they're not alone. You're going to be up there with forensic evidence at your side that will narrow the number of people that could have been the contributor of the semen down to one in a million and the jury is not going to see this as just a swearing match," he told LEN.

Even in acquaintance rape cases, where the defense is usually based on

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Boston union seeing red over new integrity-control edict

What They Are Saying:

"When does responsibility stop? If we were going to hold everyone responsible, there would be no command structure left."

— Lieut. William Broderick, president of the Boston Police Superior Officers Federation, reacting to an integrity policy that holds commanders personally accountable for the actions of their subordinates. (10:5)

A "public integrity policy" recently issued by Boston Police Supt. Paul F. Evans has come under fire from the labor union representing police supervisors, whose president charged that it unfairly puts much of the responsibility for ferreting out bad cops on supervisors.

In an interview last month with Law Enforcement News, Lieut. William Broderick, president of the 250-member Boston Police Superior Officers Federation, which represents sergeants, lieutenants and captains, charged that the 10-page policy, known as Rule 113, "burdens [supervisors] with added responsibility but gives them no au-

thority" in rooting out corruption.

"We're not quite sure what motivated it," Broderick said of the policy, which Evans issued Aug. 25. "The vast majority of the rules were already in place, but we're now at the point where it lays a lot of responsibility with field supervisors. . . . We have no say in hiring practices. They're hiring people who are subpar — and we have no say about it."

Saying Rule 113 is a "fundamentally unfair" and legally indefensible directive, Broderick characterized the policy as a "knee-jerk" effort by department brass to "shift blame away from themselves" when corruption is

uncovered in the agency.

Broderick said that to his knowledge, there are no ongoing corruption scandals or pending prosecutions of allegedly corrupt officers in Boston. "That's why it's strange that [Rule 113] is being instituted at this time," he said.

Boston police officials did not return repeated calls from LEN for comment. But when Evans issued the policy in August, he told The Boston Herald that it was "a natural part of the process" as the department moves toward implementing community policing. "Our ability to police ourselves

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Around the Nation

Northeast



CONNECTICUT — Eight Labrador retrievers will be sent to Egypt after graduating from the explosives detection program at the State Police Academy in Meriden. Greece, Chile, and Cyprus have all participated in the program.

The Connecticut State Police was honored recently by the National Association of Uniform Manufacturers and Distributors as the nation's best-dressed state police agency. Standard dress includes a gray shirt with royal blue-and-gold epaulets and shoulder patches, royal blue ties, and Oxford gray trousers.

DISTRICT OF COLUMBIA — District police will hand out 15,000 coupons good for 7-11 Slurpees under a program called "Operation Chill," which will reward youngsters for deeds such as observing traffic laws, doing something helpful in the community, or taking part in community activities.

A team of detectives is exploring whether the same killer could be responsible for the deaths of 20 women, most of them prostitutes and drug addicts. The investigation came about after homicide Capt. William Hennessey overhead several of his detectives discussing some of the cases. Nearly all of the victims discovered since 1985 have been black and in their 20's or 30's. All had high levels of cocaine in their blood, sometimes so high as to be classified as lethal.

The highest-ranking police official of the University of the District of Columbia was removed as acting chief on Sept. 8 following a report by the city's human rights department that he had sexually harassed a female officer and retaliated against other officers who supported her. Deputy Chief David H. Surratt Sr. was found to have forced Officer Wilma Y. Bumpers to repeatedly have sex with him and continued to pursue her even after she eventually refused. The report also concluded that Surratt retaliated against three other officers through demotions and transfers to less desirable shifts.

The city's new juvenile curfew law is not working as well as police claim, critics charged in September, some seven weeks after the measure took effect. According to police, about four teen-agers a night are picked up for infractions of the midnight-to-6 A.M. curfew that affects youngster 16 and under. Community activists charge that teens are still out late at night in the city's housing projects. Officers on the street say the curfew has so many loopholes that streetwise youths are able to get around it. One advantage of the law, however, is that police no longer need probable cause to approach youths who are out past the curfew.

MARYLAND — Two Molotov cocktails were hurled at a Baltimore police station in Westport Homes in August. The attack, which occurred just hours before the facility was to open, was believed to be the work of drug dealers. Repair crews also found 100 bullet holes in a trash bin.

A 28-year-old Gaithersburg man, Bobby Howard Etchison, was sentenced Aug. 21 to up to three years in prison for the statutory rape of a 12-year-old girl he met on the Internet. The girl told him she was 17. The rape occurred in Pennsylvania, where the age of consent is 14.

MASSACHUSETTS — State Police officials have been unable to explain why Ramon Rivera, a trooper in Brockton with a history of misconduct, was not dismissed prior to his conviction in late August for forcing a female motorist to undress at a traffic stop.

Katherine Baldelli, 50, was awarded \$250,000 Sept. 5 by the Massachusetts Commission Against Discrimination in a sexual harassment suit against the Town of Southborough. Baldelli, a former police dispatcher hired in 1986, said she was taunted by male officers who made derogatory comments about her and her children. She quit the position two years later after the police chief ordered her to do the dishes in the station kitchen. The award is the largest ever handed down by the agency.

NEW HAMPSHIRE — A Somersworth man, Stephen Krakowski, died Aug. 15 after being sprayed with pepper gas by Nashua police. An autopsy ruled out the gas as a cause of death. Krakowski was caught and subdued by police as he was dodging cars on Route 101A. He died shortly after being sprayed and emergency medical personnel at the scene were unable to revive him.

NEW JERSEY — Lawyers at rape trials can no longer mention how a victim looked or the clothing she wore at the time of the attack, under a new law signed Aug. 29 by Gov. Christine Todd Whitman.

Jersey City Police Officer John Chiusolo was indicted Sept. 8 on charges of manslaughter in the May 7 beating death of Julio Tarquin, 22, of West Palm Beach, Fla. Tarquin was struck repeatedly with a blunt instrument by Chiusolo at a gas station. Chiusolo, who was off-duty, had stopped to buy gas and had intervened in an argument between Tarquin and two men. The 30-year-old officer shot a man to death in 1991 and has had several brutality complaints filed against him.

Jersey City Police Officer Kimberly Greenleaf, 34, was charged with aggravated assault Sept. 3 after shooting a fellow officer in the neck during a domestic dispute. Officer Thomas Marchitto, 37, was listed in critical condition.

NEW YORK — New York City police began randomly stopping motorists at roadblocks in August and forcing them to prove that their cellular phones are legitimate. Thieves have been able to steal the codes of legally owned cell phones and bill calls to unsuspecting owners.

The number of reported violent incidents in New York City schools rose by 16 percent during the 1994-1995 school year compared to the previous year. According to Board of Education statistics, there were 19,814 incidents during the school year, ranging from assault with a weapon to misconduct reported. While the number of handguns confiscated decreased

25 percent, incidents were up in nearly every other category.

A New York City police officer was caught on videotape stealing \$1,100 from an open safe during a recent undercover sting operation. Peter Parisi, 29, from the 9th Precinct, came under suspicion by the department's Internal Affairs Bureau after allegations were made that Parisi was taking money from suspects during arrests. The Bureau created an integrity test, renting an apartment and installing two undercover officers as tenants. Parisi and his partner responded to two domestic dispute calls at the apartment, but did not take the bait until the third call about an alleged burglary. Parisi was seen taking money from the safe, and was also overheard on audiotape arranging an insurance scam to have a friend's car stolen.

New York City Police Officer Armando Palacio was convicted of perjury in August in the first case to come to trial against one of the so-called "Dirty 30" officers. Palacio, 34, of Harlem's 30th Precinct, faces up to 14 years in prison for giving false testimony to cover up an illegal search during a 1992 traffic stop. Officer Michael Walsh, who is awaiting trial on a string of corruption charges, testified that he and Palacio stopped a car driven by two suspected drug dealers when it ran a red light. Walsh claimed that the two concocted a story about finding drugs in the car at the scene. In fact, it was not until they had arrested the suspects and brought the car to the precinct that crack cocaine was spotted under the seat.

New York City police Lieut. Eileen Brennan and Det. Susan McConnell have charged that they were victims of a sexual harassment campaign by fellow detectives at the 110th Precinct. According to a \$2-million Federal lawsuit filed last month, the actions of the male detectives were part of a plan to force the transfer of Brennan and McConnell. The campaign included rumors that Brennan and McConnell were having a lesbian relationship and leaving a sanitary napkin in the detective's locker. The harassment allegedly began in 1992 when Brennan's appointment as commander of the 110th detective squad made her the only female squad commander in Queens.

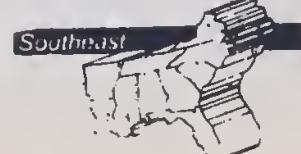
Zaida Dandridge, 35, last month became the sixth New York City police officer this year to commit suicide. Dandridge, a 10-year veteran, was assigned to the Housing Police Bureau. She was found in her office on Sept. 12 with a wound to the right temple from a .38-caliber revolver, police said. According to police, she had been speaking on the phone to her estranged husband, a fellow officer, when he heard a noise and the line went dead. Police were then alerted by her husband, and, breaking down Dandridge's office door, found her seated at her desk with the phone receiver in her hand and the revolver on the floor.

Fifteen New York City police officers working at Police Headquarters have tested positive for tuberculosis, according to tests given by the department. The officers, who are all working and appear healthy, will undergo examinations by department physicians to treat the illness and determine whether

they are contagious.

An indictment against New York City Police Officer Francis X. Livoti was thrown out Sept. 5 because of a mistake in the paperwork submitted by the Bronx District Attorney's office. Livoti was charged in the death of Anthony Baez, a Florida man who died on Dec. 22, 1994, after Livoti allegedly placed him in a chokehold. Criminal Court Judge Gerald Sheindlin dismissed the indictment after it was pointed out that the charge of criminally negligent homicide did not appear on the original indictment. Prosecutors had typed in the wrong charge of manslaughter at Livoti's arraignment. Livoti was also arrested and charged in August with assaulting a 16-year-old boy when he apprehended him for recklessly riding his go-cart on University Avenue.

PENNSYLVANIA — The head of the Philadelphia Police Department's special relations unit, Capt. Thomas Thompson, was removed in August after reportedly using a slur against a black officer. Thompson is white.



FLORIDA — Nine top officials of the Broward County Sheriff's Office have opted to retire with incentive packages sweetened with extra vacation time, sick pay and other benefits. The deals were made in agreement with Sheriff Ron Cochran to help him trim his management payroll. While sheriff's office officials claim that the retirement packages will ultimately save taxpayers \$1.1 million a year, the buyouts have been criticized by county officials, who say that retirement perks should not be offered without a general public policy. The deals have been offered only to top brass.

A 15-year-old Maryland girl was lured down to Florida by an accused rapist through the Internet. The girl, whose name has not been released, met James Latona, 40, in a computer "chat room" on the Prodigy on-line service. Latona persuaded the girl to leave home by promising not to touch her sexually, said an Orange County Sheriff's Department spokesman. Latona picked the girl up at the airport and took her to a motel where the girl said she was raped repeatedly. She was rescued when she was able to log a call for help on Latona's computer to friends in Maryland.

Three Federal prosecutors in South Florida confiscated a 22-pound package of marijuana they saw bobbing in the ocean as they headed home to Fort Lauderdale from a Labor Day holiday fishing trip.

LOUISIANA — Prosecutors recently made an offer that five reputed leaders and associates of the Gambino and Genovese crime families could not refuse. The defendants pleaded guilty in New Orleans Sept. 9 to Federal charges of conspiring to infiltrate the state's video poker business.

At least one in every 10 students at

Louisiana State University will become a crime victim during their stay at the school, police said in urging vigilance both on and off campus.

MISSISSIPPI — A coin toss will determine the next Monroe County Sheriff. Both candidates, Sheriff Ruble Maxey Jr. and challenger Brent Coleman, received 5,051 votes in the Democratic Party runoff. Under state law, a coin is tossed to decide the winner. No date has been set.

NORTH CAROLINA — Eleven of 29 new Greensboro police recruits will be paid for by the Justice Department's Office of Community Policing Services. The state has already been authorized more than \$24.8 million from COPs to put over 400 additional officers to work.

TENNESSEE — Memphis police officers Michael Javer and Eric Richardson were indicted in August on charges that they wrestled a local lawyer to the ground, sprayed him with pepper gas, and put him in a squad car with hands cuffed behind his back. The officers claim that attorney David Sullivan cursed at them and resisted their efforts to calm him after a dispute with a neighbor over loud music. Sullivan, who designed and patented the handcuffs that police used on him, was able to remove one cuff so that he could wipe his nose. Just as he got his handcuff off, he said, the officers pulled him out of the squad car and wrestled him to the ground. The officers testified that the dangling handcuff could be a potential weapon.

VIRGINIA — Inmate sick calls have been reduced 35 percent since a new program that charges state prisoners co-payments for medical care. Some \$32,000 was saved during August, the program's first month.



ILLINOIS — The shooting death of a black, homeless man in Chicago by a white police officer on July 30 is raising questions about whether the State's Attorney put together a strong enough case against the officer. Joseph Gould, 36, apparently got into a sidewalk dispute with off-duty officer Gregory Becker, 34, and a female companion over washing Becker's windshield. After shooting Gould, Becker and companion drove off and did not report the incident. The dismissal in a preliminary hearing of the most serious charge against Becker, involuntary manslaughter, angered state Representative Bobby Rush, who called for a Federal investigation of the shooting. Rush charged that Cook County State's Attorney Jack O'Malley did not aggressively pursue the case.

KENTUCKY — Police say a 13-year-old Logan County boy was listening to heavy metal music with lyrics on the occult when he shot his sleeping father in the head in late August.

MICHIGAN — Martel Welch Jr., a 19-year-old college student, was charged in August with second-degree murder for allegedly causing a woman to jump

from a bridge into the Detroit River to avoid a beating. Deletha Word, 33, was allegedly pulled from her car after a minor traffic accident, stripped and beaten before jumping into the river — all as a crowd of about 40 people looked on, according to police. Police say Word struck Welch's car as she drove onto the General MacArthur Bridge. Before dozens of witnesses, Welch pulled the woman from her car and beat her with his hands. Despite being unable to swim, Word jumped into the river to escape. Her body was found about 10 miles down river from the bridge.

OHIO — Deaths from alcohol-related traffic accidents have dropped by 32 percent since the state toughened its drunken-driving law in 1993, the Department of Public Safety said last month.

The newest anti-crime weapon in Powell is the bicycle. About 20 officers ride in 10-mile shifts on their all-terrain bikes.

The State Highway Patrol's 40-year-old radio system will be replaced by 2001, officials said in August. The patrol's 39 to 45 megahertz system, perpetually plagued by problems, will be given a \$175-million upgrade.

WEST VIRGINIA — A short time after giving three men a traffic citation, Smithers Police Officer Joseph Burrows had his home bombed with Molotov cocktails. Although Burrows's wife and children were in the home, no one was hurt. The men were charged on Sept. 10 with the bombing.



IOWA — The parents of a Britt boy killed in a car crash with a drunken driver will not have to pay the legal fees of the man who killed their son. Tom and Kim Grant will receive \$2,000 from a Civil Reparations Trust Fund to pay Raymond Laurie's legal debts. The Grants had sued Laurie and won \$900,000 in damages, but could not collect because Laurie was imprisoned and had no assets. The state high court ruled that they would have to pay the fees in the case, but the Iowa Executive Council voted to pay the fees from the trust.

MINNESOTA — Hilltop, a Twin Cities suburb with a population of 774, leads the state with the highest number of crimes per capita — one for every six residents in 1994, according to state crime statistics. Hilltop was followed by Bemidji and Minneapolis.

Several St. Paul parents are furious over an incident involving a police officer pulling his gun on teen-agers playing a game of hide-and-seek. The parents of Michael O'Hara, 14, and Raksmey Pham, 15, claim that Officer Joseph Strong came running at the boys with his weapon drawn when they emerged from the bushes where they had been playing. Strong, an 11-year veteran, then allegedly forced the boys on the ground, pointed the weapon at them, and, while cursing, threatened to kick them. The parents are demand-

ing that Strong be disciplined. Michael McGinn, commander of the training section, said that officers are taught to take the same precautions with all potential criminals, including children. Strong was cleared with another officer in 1990 of any wrongdoing in the shooting death of a mentally ill man armed with a knife.

The Minneapolis Police Department welcomed 30 new officers on board Aug. 30 — the first group to be sworn in under Police Chief Robert Olson. The new officers include the first married couple to go through training together.

MISSOURI — Police say Kansas City's new riverboat casinos are responsible for a surge in the number of pawnshops that have opened in the city during the past 18 months. In the metro area, the number has risen from 4 to 38 since 1979, with 12 opening in just the past 18 months.

In an effort to avoid a costly battle with the American Civil Liberties Union, the City of Springfield has replaced a ban on public profanity with an ordinance that prohibits only obscene speech meant to incite immediate violence.

NEBRASKA — Eighteen students at the University of Nebraska campus in Lincoln have complied with a new policy of keeping weapons at police headquarters, said university police in August. The site is accessible to gun-owners 24-hours-a-day.

Two men have been charged with the Aug. 20 murder of Omaha Police Officer James Wilson Jr., the first city police officer in 21 years to be killed in the line of duty. Kevin Allen, 18, and Quincey Hughes, 20, were charged with killing Wilson, 24, during a traffic stop. Five others were charged as accessories.

SOUTH DAKOTA — Twenty low-priced homes for the elderly will be built in small towns by prison inmates in Mitchell under a program organized through the state Housing Development Authority. The 672-square-foot homes will sell for \$25,000.

WYOMING — Federal District Judge William Downes said he would decide by the end of the year on a challenge by the Wyoming Sheriffs' Association to a provision of the Brady Act that requires background checks for handgun buyers. Congress placed an "onerous burden" on law enforcement officers, said the association's counsel, by requiring them to conduct checks on people who buy guns from Federally licensed dealers.



ARIZONA — Three phone calls helped law-enforcement officers nail the man suspected in the fatal shooting of veteran Arizona Highway Patrol Officer Bob Martin on Aug. 15. Ernesto Salgado Martinez, 19, was arrested in Indio, Calif., Aug. 16 after a two-state, 32-hour manhunt. The first major break in the investigation, said Maricopa

County Chief Deputy Jesse Locksa, came when a call came from a witness who saw Martin with a motorist. The second break came when a motorist reported seeing Martinez's Monte Carlo race down the highway and wrote down the license number. He also gave a description of Martinez. A third witness told police that he had sold a car to Martinez that was similar to one described in media coverage of the manhunt.

Sixteen of the 22 new Pima County Sheriff's Department officers will be funded by the Justice Department's Office of Community Policing Services. More than \$18.6 million has been authorized to the state to place an additional 250 officers on patrol.

Beginning this month, prospective teachers in the state are required to successfully complete a national criminal background check before they can begin work.

TEXAS — The state has formed the Texas Child Abuse Prevention Task Force in light of statistics showing a child killed every three days by a parent or guardian and some 60,000 child abuse cases each year.

Charles Ray Polk, a militant tax protester, was charged Sept. 12 with plotting to blow up an Internal Revenue Service building in Austin. Polk, 45, had planned to bomb the facility between April 4 and July 28 when his scheme was discovered by Federal agents.

A sting set up by undercover agents in Corpus Christi netted 20 people last month, most of them on money-laundering charges. The agents, posing as drug dealers, provided \$500,000 in "drug profits." The money was then commingled with money from the accounts of businesses that appeared to be legitimate.

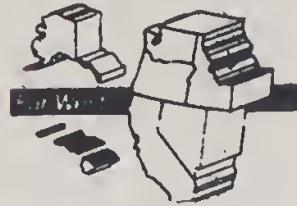
Attorney General Dan Morales ruled Aug. 30 that transit authorities and businesses may ban the carrying of concealed handguns, in an exception to a law that took effect Sept. 1. Concealed weapons may also be banned in county parks.

Murders were down in Houston by 26.9 percent through July of this year compared to the same period as in 1994. Police recorded 171 murders.

Despite a fourfold increase in seat belt use during the 10 years since a tough state law was implemented, drivers are still not using their seat belts often enough, according to law enforcement officials. Statistics show a person not wearing a seat belt is 11 times more likely to die as a result of a car accident than one who is, said Lieut. Col. Dudley Thomas, assistant director of the Texas Department of Public Safety. The introduction of airbags in cars has made people even less likely to use seat belts, according to a spokesman for the Texas Automobile Dealers Association.

Bayou Vista Police Officer William Miller was dismissed Aug. 26 following an investigation by Police Chief Bill Jobe into allegations that Miller assaulted a homeowner and her husband. A grand jury had declined to indict Miller. Mayor Billie Moore said

the unanimous vote by the Board of Alderman to fire Miller came at the recommendation of Jobe, and was permitted under the Texas Municipal Code, which allows the board to fire an officer in whom it lacks confidence.



ALASKA — Some residents of Barrow, the nation's northernmost town, are calling for the repeal of a 10-month-old ban on alcohol, even though the ban has resulted in a significant decrease in emergency room calls, drunken-driving arrests and other alcohol-related emergencies. A petition calling for another vote on the ban in November has been signed by 700 residents — more than the number of votes that were cast against the ban last year. Drunken driving arrests dropped from 73 in the six months before the town went dry to just nine in the subsequent six months, according to the town's Public Safety Department.

Alcohol-related jailings dropped from 239 to 29 in the same period. Only 19 alcohol-related emergency room visits were recorded in July, compared with 118 last October.

CALIFORNIA — Santa Ana police have halted a program of making crack cocaine in the Orange County sheriff's crime lab and selling it on the street in reverse-sting operations. A judge had banned the practice and was not expected to lift the ban, one official said.

San Diego Sgt. George Dowden was arrested in September on charges of twice breaking into a local company and stealing money. Dowden, 39, was arrested after an alarm system went off at Mitek Systems Inc. during a theft of \$400. On Aug. 16, Dowden allegedly stole \$155 from a cash box on a receptionist's desk at Mitek.

Over 300 gay and lesbian police officers from six countries and 26 different states gathered in Los Angeles during the first week of September for the first annual meeting of Law Enforcement Gays and Lesbians (LEGAL) International. The conference was co-sponsored by the Los Angeles Police Department.

Murder charges against two defendants were dropped last month — and charges in up to 100 other cases may be in jeopardy — following the admission by a Los Angeles detective that he had forged a witness statement. Det. Andrew Teague told prosecutors that he had forged the signatures on a report which had two witnesses supposedly identifying the defendants as gunmen. One of the defendants, Kevin Adams, was released from jail. The other, Girard Moody, remained incarcerated on unrelated charges. The case stems from a Nov. 29, 1994, shooting in which one person died and another was wounded. Both Teague, and his supervisor, Charles Markel, were ordered to give up their badges and guns and remain at home during an internal affairs investigation. Teague, an 18-year veteran, was one of 44 officers singled out in the Christopher Com-

mission's 1991 report on excessive force in the department.

A jury on Aug. 7 ordered Los Angeles County to pay \$15.9 million in damages for a 1989 sheriff's department raid on a bridal shower that left dozens of guests injured or under arrest. The award, believed to be the largest civil rights judgment ever involving the sheriff's department, stems from an incident in which about 100 deputies in riot gear descended on a Cerritos home, and proceeded to beat party guests with nightsticks and flashlights and kicking them in the head. While dozens of people were arrested, none were convicted of a crime; most had charges against them dropped.

Eighty-two new Los Angeles County sheriff's deputies graduated Aug. 31, with 49 of them funded by the Justice Department's Office of Community Oriented Policing Services. At the same ceremony, four Pasadena police officers funded through the COPs office graduated.

An appeals court ruled Aug. 30 that under a new state law, sex crimes committed years ago against children who either failed to report the incident or repressed their memories can be prosecuted. The court ruled in a Tulare County case dating back to 1967.

NEVADA — A Las Vegas teen-ager was arrested Aug. 31 after his mother found him cooking methamphetamine on a hot plate in his bedroom, using a recipe he picked up over the Internet.

Three Las Vegas Metro police officers were suspended Aug. 22 after a hotel surveillance camera videotaped them beating a homeless man.

OREGON — The state Supreme Court on Aug. 30 declined to hear a challenge to a new mandatory sentencing law that increases penalties for 16 violent crimes. Nearly 50 criminal cases had been put on hold pending the court's decision.

WASHINGTON — With an estimated 96 percent of 6,600 burglar alarm calls in 1994 proving false, Spokane Assistant Police Chief Dave Peffer said Aug. 21 that he would like to charge business and homeowners for the false alarms.

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Shooter's tale ends

Shavod Jones, the New York City youth who shot and paralyzed a police officer in 1986, died Sept. 9 from injuries sustained in a motorcycle accident, just three days after he was released from prison.

In July 1986, Officer Steven McDonald, then 29, was on plain-clothes patrol investigating bicycle thefts in Central Park when he approached Jones, then 15. Jones opened fire and his bullets sliced through the officer's spine. McDonald was left paralyzed from the neck down and now requires a respirator to breathe.

McDonald, who had planned to contact Jones and offer to help him adjust to post-prison life, said he was shocked when he learned of the fatal accident. "I have a great deal of compassion for him," McDonald told The New York Post. "I forgive him for what he did."

The accident occurred as Jones was riding on the back of a Honda 900 motorcycle driven by a friend and fellow ex-convict, Kenneth Lynch, 24. While trying to pop a "wheelie," Lynch lost control of the motorcycle and it slammed into two cars.

One of those cars was a Chevrolet Blazer that belonged to the New York State Division of Parole, which had kept Jones under 24-hour surveillance since his release from prison. Parole Officer Lisa Lopez injured an ankle in the accident.

In March 1994, Jones was accidentally released from prison nearly two years before he was scheduled to go home, after prison officials had miscalculated the formula for his parole. More than a dozen officers were dispatched to track Jones down in his Harlem neighborhood the night of his release.

McDonald had sent Jones a public message of sympathy, forgiveness and hope while the youth was incarcerated — an extraordinary gesture that perplexed some of his colleagues on the police force. "They shake their heads," McDonald said of the reaction from fellow officers. "They don't quite understand."

In addition to publicly forgiving the boy who left him a quadriplegic,

Chief leaves drug-decrim issue behind

One year after he wrote an article calling for the decriminalization of soft drugs, Ottawa, Ontario, Police Chief Brian Ford says he has moved on to tackle new issues, but has no regrets about the article that agitated some of his counterparts in Canadian law enforcement.

Ford's article was published in the summer 1994 edition of *Express*, the magazine of the Canadian Police Association, in a section where police executives were asked, "If you could change one piece of legislation to improve the criminal justice system in any area, what would it be, how would you change it and why do you think the change is necessary?"

While the other police executives wrote articles calling for tougher criminal sentencing, Ford weighed in with the argument that enforcing laws against marijuana and hashish costs money and lives and does not "belong in the sphere of criminal enforcement." Since the article was published, Ford has been asked to give speeches on the decriminalization of soft drugs and has won praise

from some community members — and "got a rap in the knuckles" from the Canadian Association of Chiefs of Police.

"Honestly, I don't regret what I have said," Ford told Law Enforcement News. "If we're in positions such as the chief's position, we have to be open-minded. We can't blatantly do things over and over the same way we've always done them."

In the article, Ford wrote that while police departments enforce the law of government, the courts have a different agenda. "Consider that in Canada the judiciary in the vast majority of simple possession cases grant absolute or conditional discharges to those charged. Yet, for a simple traffic violation, you are normally fined. The court is sending a message that they are not prepared to give the same status to the use of soft drugs as the government apparently does."

Illustrating his view of the drug war's cost in lives and money, Ford recalled an Ottawa drug raid in 1991 in which police shot an innocent bystander, who later died. Vincent Gardner was holding the neck of a guitar, which a

police officer raiding the house mistook for a rifle, then shot him.

Ford wrote: "When you balance the human cost of the raid, the agony of the Gardner family, the trauma the officers involved have been going through, as a police administrator, you have to ask yourself some very serious questions. Is it worth it, and is there a better way of dealing with the issue of drug enforcement?"

The officer who shot Gardner was cleared of manslaughter charges. In August, a lawsuit with Gardner's family was settled for \$100,000. All told, Ford said, the incident cost Ottawa about \$1 million.

But the cost of drug enforcement on all of Canada, Ford wrote, is much higher. "In Canada last year [1993], approximately \$250 million was spent enforcing drug laws. That cost does not include the hundreds of millions of public funds spent on legal aid, bills for defendants, and the cost of prosecution. The costs to do not stop with the prosecution and conviction. . . .

"Our prisons are overcrowded; we cannot afford to continue to lock people up for offenses like these. There are

better ways of dealing with what I believe is a health and social problem, and hence the need for dialogue."

Ford told LEN that his personal views on decriminalization do not affect his enforcement responsibilities. "I have a mandate as a chief of police at a law enforcement agency to enforce the laws of our country. And we're going to continue to do that. It doesn't mean that I'm going to diminish in any way, shape or form what my mandate is."

He said his stance on decriminalization is shared by some of his staff, while others at his department opposed his article. But together, he said, the department continues to go after drug dealers. "We will continue to enforce the law and we have to because otherwise you would have every chief who had a personal whim not doing something, and I don't think that would be right," he said.

With the fallout from his article mainly behind him, Ford said he has moved on to other priorities. He said he is currently helping to design a Canadian national gun control bill.

McDonald repeatedly tried to help Jones find rehabilitation, even redemption.

In 1990, Jones telephoned McDonald from prison and apologized. For a short time, the two wrote letters to each other, but the relationship ended after McDonald turned down a request from the Jones family to help seek his parole.

"I wasn't knowledgeable enough or capable enough to help make that decision," McDonald said.

Jones's extensive criminal record and chronic disciplinary problems in prison led few to believe he would turn his life around once he was released. Before shooting McDonald in 1986, he had a long record of violence that included an arrest for mugging a 92-year old woman.

But McDonald was always optimistic that Jones would change his ways, and even said that he believed one day he and Jones would go on a speaking tour to share their experiences with schoolchildren. "There was goodness in his inner being," McDonald

said of Jones.

McDonald had expressed interest in attending Jones's funeral on Sept. 14, but his family announced that no one outside the immediate family — including McDonald — was welcome.

Although he will never see Jones again, McDonald said the young man's death does not close a chapter in his own life. "I'm almost as bad off now as the day I was shot, and Shavod Jones is always going to be a part of my life," he told The New York Times. "I'm paralyzed from the neck down, I'm dependent on a ventilator. Is there closure? I'd say no."

Chief with no cops

The Washington, D.C., Housing Authority, which oversees some of the most violent and drug-infested public housing complexes in the nation, was recently assigned its first director of public safety.

Former Metropolitan Police Commander Robert C. White was appointed to the newly created position on Sept. 17, promising to make the 24,000 public housing tenants "the safest residents in the District of Columbia."

But while the Housing Authority now has a public safety director, Washington still does not have a housing police force. D.C. public housing receiver David I. Gilmore, who appointed White, said it still has not been decided whether to create a new police agency or to strengthen the housing authority's ties to the Metropolitan Police Department and an array of Federal law enforcement agencies.

"This agency spends millions of dollars each year on public safety and you would never know it," Gilmore said. "It's hard to know where it's being spent. We don't lack for resources in that regard. We lack the

plan to make the best use of those resources, and that's why [White] is here."

City Council member Frank Smity Jr., who has proposed creating a public housing division within the Police Department, told Gilmore and White at the announcement ceremony that he would continue pushing the idea as "the only way we're going to get rid of the high rate of crime and violence around our public housing."

White withheld comment on Smity's proposal, but did say he favored an arrangement in which D.C. police officers work overtime shifts to provide 24-hour security at one complex. "The fear level of crime has diminished," White said. "And there's been less drug activity."

White, 43, said he plans to visit all 60 public housing complexes to learn of security needs from the residents. He said he intends to be "situational and flexible" on policing the complexes.

The public safety director's appointment was announced at the Kelly Miller Apartments in Northwest Washington, the site of a major undercover operation this year by Federal agents and D.C. police officers that resulted in the arrests of an entire drug gang that plagued the complex.

Hot wheels

For their successful investigation of the theft of more than \$10 million worth of automobiles, FBI supervisory special agent Frank Heaney and his multi-agency team were recently awarded the the 3MIAATI Vehicle Theft Investigation Award.

Heaney's team, which included FBI agents Mary Ellen Beekman, Mark Donohue, and Kevin White, New Jersey state trooper Rick Lane, and Mike Mechow of the National Insurance

Crime Bureau, brought down a Bronx, N.Y., ring that stole up to 100 luxury cars a month.

During the 15-month investigation called "Operation Drex Paper," the team tracked a scam that originated in the Dominican Republic, where officials allegedly gave members of the car ring authentic certificates of origin that accompanied expensive vehicles exported from the United States. The certificates were supposed to be filed in the Dominican Republic, but officials passed them on to conspirators in New York, who would then steal cars identical to those on the certificate.

After the cars were stolen — mostly Infinitis, BMWs and Mercedes-Benzes — their vehicle identification plates, VIN stickers on components and VINs etched in remote areas of the cars were re-identified with forged VINs to match the numbers on the certificate. Once the authentic paperwork matched the cars, they were sold to unsuspecting car dealerships or exported to conspirators in the Dominican Republic.

Heaney said this was the first time he saw car thieves use authentic certificates of origin to resell stolen cars. "It was unique in that the scheme was paper driven," Heaney said. "They stole cars based on legitimate paperwork," he told LEN.

Twenty-nine members of the Bronx ring were charged with interstate transportation of stolen motor vehicles. A trial date has not yet been set.

Heaney and his team were given the award on Aug. 7, at the IATTI's annual conference in Orlando, Fla. The award is given annually to recognize efforts of an auto theft investigator or team where VIN labels played a crucial role in the investigation.

"Vehicle identification numbers are often the key to cracking vehicle theft cases, as demonstrated by Heaney and his team," said Kevin Curry of 3M Verification Systems. "This award is one way we can honor the efforts of auto theft investigators and underscore the importance of their efforts."

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Trash-collection crews help police by looking for dirtbags

By Stephen Donohue

With limited budgets and short-handed police staffs, law enforcement agencies are always looking for new ways to improve public safety without bearing expensive costs.

Help from outside a police department always helps, and in seven counties in northeastern Mississippi, that aid is coming from a surprising source: sanitation workers.

As part of Operation Waste Watch, 28 crews of sanitation workers have been trained to recognize suspicious activity they may witness on their routes and report it to police. The sanitation workers' routes run through mostly rural areas which are sometimes difficult for police to patrol effectively.

"We can't be everywhere at one time," said Tupelo Police Chief Willy White. "This certainly increases the odds of catching people in the act."

The program was developed by Three Rivers Planning, a nonprofit agency in Pontotoc, Miss., that administers Federal and state programs. Sanitation workers in Lafayette, Union, Pontotoc, Calhoun, Lee, Monroe and Itawamba counties are participating in the program.

Mid Brown, a Three Rivers data analyst and planner who launched the program, said the goal is not only to prevent property crime in rural areas, but to have sanitation workers report any medical emergencies they may

run across.

Brown said the majority of crimes in rural Mississippi are committed during the day and some of the crimes are directed at the elderly. "A community watch program works fine when you've got a neighbor to watch you, but when your nearest neighbor is a mile or two miles away, then you don't necessarily have anyone to help watch your house," she said.

Tupelo Police Capt. Russ Witt, who supervised the training of the sanitation crews, said the workers know the routines of people that live along their routes. He said the key piece of advice he gave the crews was to just be more observant.

"Basically we told them to keep their eyes open. They travel these streets every week, they know the people on the routes. They know who is normally there and who is not there. We told them what we were looking for were suspicious cars and suspicious people that aren't normally in the area," Witt said.

While sanitation workers in Pontotoc County can reach the Sheriff's Department directly by changing the channel in their truck radios, workers in the six other counties must radio emergencies to their dispatcher, who then telephones the appropriate police department.

Another advantage of the program is that police can also alert sanitation

workers of cars or people they may be searching for in the vicinity of the collection routes. Pontotoc Sheriff Randy Roberts said that in April, four months before the program began, a crew of sanitation workers in his county spotted a car that three patrol vehicles were searching for after the workers heard the vehicle's description on the police radio channel.

"They [sanitation workers] monitor our channel most of the time. If there's something that we have going on, they usually know it or if they don't, we flip over to them and tell them," he said.

Roberts said the sanitation workers are useful for reporting potential burglaries, since they can recognize suspicious cars with out-of-state license plates on their routes. "One thing I tell them is if you see a vehicle in a driveway and the trunk is open and the doors are open, something isn't right. Either the people are moving or somebody is moving them," he told LEN.

The workers are told to report anything suspicious that they see on their routes, but not to intervene in a situation. Police said they are confident that the sanitation workers will not get physically involved.

"I think they realize they could get hurt if they tried to do something," Roberts said. "I tell them if they see something, call us. Don't take any action on."

SF homeless camps lose out in drive on quality-of-life crime

In an expansion of San Francisco Mayor Frank Jordan's program to crack down on quality-of-life offenses, police have begun sweeping city parks clean of encampments of homeless people, following a Federal court's recent summary dismissal of a lawsuit that claimed the program criminalized homelessness.

The Matrix program, which got its name from a police practice of forming special tactical groups known as "matrix" units to tackle specific crimes, began in 1993 as an effort by the Mayor to end the city's image as a magnet for the homeless. It's also an effort to improve public safety by enforcing ordinances against such nuisance crimes as public drinking, loitering, public urination and defecation, sleeping in doorways and on benches, camping in parks and aggressive panhandling.

Eighteen state and city agencies, including the Police Department, participate in the program, which also seeks to link the homeless with agencies and services that can help them.

On Aug. 22, U.S. District Judge D. Lowell Jensen ruled that attempts by police to enforce public-nuisance laws under Matrix did not unfairly target the homeless. The Lawyers Committee for Civil Rights and the American Civil Liberties Union of Northern California had filed suit in November 1993, claiming that the program violated the Eighth Amendment ban on cruel and unusual punishment because it punishes the status of homelessness. The plaintiffs also contended that the program deprived the homeless of equal protection under the law.

"The City has legitimate reasons for implementing Matrix, including the prevention of crime, maintenance of public health and the preservation of city aesthetics," said Jensen. "The City has submitted uncontradicted evidence that homeless encampments can lead to drug sales, vandalism, public elimination of body wastes and other unhealthy conditions, as well as facilitation of a host of other crimes by and against homeless individuals."

Jordan called the decision a "huge victory for Matrix and for quality of life in San Francisco."

The Mayor promptly announced an expansion of the program designed to "take back our parks," particularly 1,000-acre Golden Gate Park, the city's largest, which has long been a magnet for the homeless. It was near the park on Aug. 19 that a 52-year-old homeless man allegedly shot and wounded three other transients and a police officer and killed a police dog.

Teams of police officers, social workers and public health authorities canvassed parks to inform the homeless of the impending sweeps for about five days, said mayoral spokeswoman Staci Walters. "Then we let people know that sometime during the week of August 23rd we were going to enforce the anti-camping laws in the parks," she told Law Enforcement News.

Walters said police issued about 100 citations and made 20 arrests — most on outstanding bench warrants — in the first round of sweeps, which she said are continuing. The city's Parks and Recreation departments dismantled several ramshackle homeless encampments in Golden Gate, Eureka Valley and Buena Vista parks, she added.

Since the program began in July 1993, the Police Department has conducted over 5,000 "enforcement actions" — from citations to arrests — not all of them involving the homeless, according to Cmdr. Dennis Martel, who heads the Police Department's Patrol Division and who serves as the agency's project coordinator for Matrix. Officers are given discretion as to what course of action to take, Martel told LEN. "If they can abate the nuisance through admonishment and referral, we give them that latitude. We want them not to ignore it, but to do something."

"We've been very successful in modifying behavior," Martel continued. "We no longer have the numbers and intensity of aggressive panhandling and nuisance-type behaviors. People know that they're going to be held accountable and they've attempted to conduct themselves in a more legal and acceptable fashion."

Alan Schlosser, managing attorney of the ACLU of Northern California, said plaintiffs have filed a notice of appeal to the U.S. Court of Appeals for the Ninth Circuit. "The focus of the challenge is the fact...that there are not adequate shelter beds in San Francisco for people who do not have homes or places to live, that the government cannot criminalize sleeping in public when you have a situation where there are going to be some people who have to sleep in public. That's punishing people for being homeless — not for conduct — which violates the Constitution," he said.

Martel denied Schlosser's charge, saying the court's dismissal of the lawsuit underscores the program's validity. "From day one, we've told the advocates this was not a program to drive homeless people out of the city...but to enhance the quality of life for citizens, visitors, and homeless people. It was a concerted attempt to hold all people accountable for their behavior," he said.

Schlosser said the civil-rights group had received complaints about "police actions, both in terms of seizing and destroying property that was not abandoned, hassling and citing people when they weren't even violating the laws that do exist."

Martel conceded "a couple of isolated incidents" in which unattended property was seized by officers in the first months of the program. Policy was revised to allow the city's Department of Public Works to store unattended property up to 90 days until claimed by its owner. "Sometimes there's a very thin line between property that's left for later retrieval versus abandoned property and garbage," he added.

Minneapolis murder toll sets record, prompts crime "triage"

While many of the nation's largest cities have recorded unprecedented declines in their homicide rates in the past two years, the killing goes on in Minneapolis, which last month surpassed its record of 63 murders set in 1991.

As of Sept. 8, 73 homicides had been reported to Minneapolis police, who say the onslaught of murders — which are often motivated by drug turf disputes or gang rivalries — is causing burn-out among detectives and frustration for victims' grieving families.

"My fear is this is the new norm, and it's not going to go back down to the numbers we've had in the past," said Lieut. Mark Ellenberg.

Ellenberg told USA Today that as many as half of the cases handled by the homicide squad, which consists of eight two-officer teams, have remained unsolved. Each investigation takes about 70 hours from start to finish, and the day is punctuated with calls from grieving relatives inquiring about the status of cases. Young black men in their 20s make up the majority of victims, most of whom were shot to death with handguns, police say.

The staggering workload has forced the Police Department to set up a kind of violent-crime triage — assaults, such as stabbings with unknown assailants, receive a lower investigative priority. At the city morgue, bodies are stockpiled as investigators prioritize and handle autopsies of murder victims before working on car-crash victims.

"There are times when you've got three or four bodies at one time, and there's only so many places to put them," said Mike Ridgely, who supervises investigations for the Hennepin

Police chief is "disheartened," detectives are burned-out, and victims' families are frustrated.

County Medical Examiner's Office.

Last month, officials used an ominous occasion — the breaking of the old homicide record — to send an anti-violence message out to city residents, many of whom attended vigils for homicide victims. "Government and police can't do it alone," said City Council President Jackie Cherry at a news conference that included Mayor Sharon Sayles Belton and Police Chief Robert Olson. "As someone who has lived in Minneapolis all of my 41 years, I am completely disheartened by the situation. This is not the Minneapolis any of us want to live in."

Olson stressed that the community must take action to end urban violence. Police officers will confiscate any illegal gun they come across during traffic stops, as part of a new program called Operation Safe Streets, he said.

The Chief also reminded residents that compared to many other U.S. urban areas, Minneapolis is a comparatively safer place, where crimes in many categories have declined in the past couple of years. "It's not that we have these crazy people running around the city randomly shooting people," he said. "On other fronts, serious crime is even declining."

"Something's wrong and I'm going

to say it. We've got a crisis in the African-American community and we've got to deal with it," said Belton, the city's first black mayor. "Something is happening in our communities and we don't even fully understand what it is. But we do know that we shall not tolerate the violence, the guns, in our communities. There's something for us to do... That's the message we've got to get out."

Some black residents charge that police failed to control the city's burgeoning gang problem, making conditions ripe for the jump in homicides. "They didn't listen," said Rev. Jerry McAfee of the New Salem Missionary Baptist Church, who has mediated gang disputes.

McAfee has created teams of a dozen volunteers each who call themselves the Mission of Peace, and who will canvass city neighborhoods to patrol streets, shout down drug dealers and promote peace among gangs. The teams will also provide tips to police about uncooperative drug dealers and gang members, McAfee said.

Some members of the group will also be trained as grief counselors and visit victims' survivors, McAfee added. "It's going to take a uniformed effort to fight this monster. We've got to do something," he said.

The effort to bring down the city's homicide rate is taking place on several other fronts. The local chapter of the National Urban League has set up a 24-hour hotline to report crime. And Belton is proposing changes in zoning laws that will prevent gun dealers from operating in residential neighborhoods in the hopes of reducing the availability of firearms.

Calif. counties cope with "3-strikes" cases

Continued from Page 1
Junior felons

"No other state has passed a three-strikes law that is nearly as ambitious or sweeping as California's," said the study's author, Dr. Peter W. Greenwood, director of Rand's Criminal Justice Program. "That's the big difference. After you have one strike, you can never again get probation. You've got to go to prison, and you've got to do 80 percent of your term instead of 50 percent. And you've got to do double whatever the ordinary term is. That's a big whack after your first strike."

And Californians have not seen fit to raise the tax revenue needed to finance the law, Greenwood added. "Nothing's happened financially to bail out the prison system," he told LEN. "They're not passing bonds, they're not building new facilities. There's no projecting this horrendous burden on the prison system."

A Growing Backlog

To date, Los Angeles County prosecutors have filed approximately 3,100

three-strikes cases — 50 percent to 60 percent of which have not yet gone to trial, said Gibbons, the D.A.'s spokeswoman. Since three-strikes defendants face life in prison if convicted, many choose to go to trial rather than plea bargain. "They'll figure they'll take their chances with a jury," she said, adding that the county prosecutes about 70,000 felonies annually.

"We do have discretion to strike one of the priors," said Chief Deputy District Attorney Sandy Buttitta. "If we already have someone with a present offense — say he goes in and steals a couple of cartons of cigarettes, and he's got some priors a long time ago and has been relatively free of crime for 15 years, we'll look at his case and use our discretion and let him plead for something else. This is not the type of person the law was designed for."

However, Buttitta said, such a scenario is the exception, not the rule. "In tracking our cases over the last three months, we're finding that the number of cases being concluded by some sort of disposition is dwindling. What we

think is happening is we've really weeded out a lot of the ones that can be settled, and what we have remaining is a large backlog in our jails."

"We also track our older cases — anything that's been in Superior Court over 120 days — and that backlog is growing and growing and growing," she said.

Too Few Lawyers & Courtrooms

Like all county agencies, the District Attorney's Office is trying to conduct its business against a backdrop of decreasing budgetary resources. "We're now in a hiring freeze, so if people leave the office, they can't be replaced," Buttitta said. "We're asking them to do more work with less resources and no raises for the last three or four years. It really becomes a morale problem, too."

The displacement of cases caused by the shortage of courtroom space causes numerous inconveniences for everyone involved — judges, prosecutors, defense lawyers, witnesses and victims alike, Buttitta noted. "Our deputies are being sent out of the buildings they normally work. They have to drive to a place they're unfamiliar with to get to trial. Witnesses and victims have to drive 30 or 40 miles away, and that kind of interrupts their lives."

The surge of three-strikes cases is also wreaking havoc on the Los Angeles County Superior Court, said supervising criminal court Judge James Bascue. The county is running out of courts in which to hold trials, he said, forcing judges to try criminal cases in civil courtrooms. That in turn is having a ripple effect of lengthening the time it takes to settle civil lawsuits in the county, making the average five-year wait to settle civil cases even longer, he added.

"Nothing But Criminal Cases"

About 50 civil courts have been pressed into service to deal with the huge strain on the criminal court system. "Because there's not enough criminal courts, we're having to interfere and invade the civil courts. So we have a tremendous disruption in our civil justice system as a result of these cases going to trial," said Bascue. "As an example, in Lancaster, Pomona, Long Beach and Torrance, there's no civil justice, no civil trials. They are doing nothing but criminal cases."

Before the law, Bascue added, less than 4 percent of the criminal cases in Los Angeles County ever went to trial. Now, almost 15 percent of felony defendants are choosing to go to trial.

"In Los Angeles County, we currently have set for trial over 8,000 felony cases," he said. "Over 4,000 of those are second- or third-strike cases. Two-thirds of those strike cases are for non-violent serious felonies, such as drugs. That's a lot of the volume."

The "tremendous onslaught of cases" is also posing problems in seating jurors, the judge told LEN. "We're about to run out of jurors. Every Monday it's a challenge just to get enough jurors to start a jury trial so the case doesn't have to be dismissed."

The situation poses a serious threat to the safety of witnesses and victims, Bascue pointed out, because the civil courts were never designed with criminal defendants in mind, with insufficient lockups and no corridors in the back. Last month, a woman was killed

in a courthouse shooting, while another shooting occurred in the parking lot of a courthouse in Pomona, he said.

A Changing Inmate Profile

Bascue also voiced concern about the number of potentially dangerous convicts being let out of the county jail as it fills up with repeat felons awaiting trial. The huge numbers have prompted Sheriff Sherman Block to institute a policy of not accepting defendants with bail of less than \$25,000, and forced the Sheriff's Department to release those being held or serving time for lesser offenses.

"It caught us very, very much by surprise," said the LASD's division chief Myron. Prior to the law's enactment, he said, felons were held an average of 60 days from arrest to disposition. "Second strikers now stay with us 114 days on average, and third-strikers stay with us 171 days on average," he said.

The surge of serious felons in the system also caused a near-doubling in the number of high-security inmates, Myron added, from about 36 percent of the entire jail population to 60 percent, as of mid-September. Since the jails must abide by a Federal cap on the prison population of 18,000 inmates, Myron said the jails have "a lot less room for people who belong there."

"Most of my misdemeanor-sentenced inmates are only serving about 35 percent of their sentences," he said. "We are talking people charged with drunk driving, prostitution, low-grade assaults, thefts and concealed weapons offenses."

The law has also caused a pronounced shift in the proportion of pre-adjudicated inmates to the sentenced population, he added. "People waiting for trial prior to the law were 59 percent of my population, the other 41 percent were here on a sentence," said Myron. "Now I've got 69 percent of my population waiting for trial, so I've only got room for 31 percent to serve their sentences."

Less of a Pinch Elsewhere

While the three-strikes law has affected the criminal justice system statewide, its impact on Los Angeles County appears to be unique, sources told LEN, owing partially to the immense size of the jurisdiction, which has 9 million residents. Officials in other jurisdictions say the law has not had the same adverse effects on their criminal justice systems, and some prosecutors and judges have taken steps to control the influx of cases.

District Attorney Edward Jagels of Kern County, whose jurisdiction includes Bakersfield, said that his office noted an initial surge in three-strikes case filings, which peaked in January. Since then, the number of cases has "probably stabilized" at about 10 per month, according to a report on the law's impact compiled by Jagels and released in July.

Kern County tries so many more cases per courtroom and per deputy D.A. than the jurisdictions that are complaining," he said. "It's clear that you probably have to dedicate more resources to handling those jury trials, and less resources to other things."

Having Second Thoughts

Jagels said he expects the leveling off in three-strikes cases to continue as

repeat offenders are put away for good, and two-strikers leave the state to avoid the possibility of life sentences. "I think all potential three-strikers who were out there can be divided into two groups: those who are going to go ahead and re-offend — who can't be deterred by anything — and those who are now having second thoughts about re-offending, or at least re-offending in Kern County."

The San Diego County District Attorney's Office has set up a special unit that deals solely with three-strikes cases. The coordinated, centralized effort has helped the jurisdiction cope with the initial 30-percent jump in the number of trials, and avoid some of the problems that have arisen in Los Angeles County, said Deputy District Attorney Greg McClain, team leader of the eight-member three-strikes unit.

"We're real consistent in how we deal with the cases. I know where every third-strike case is, and pretty much know the facts of every third-strike case. . . . We're pretty much dealing with the same judges, too. They set up three separate departments, and all they do is hear the trials on three-strikes cases," McClain told LEN.

"Our people are busy, but it's not out of hand, we're not shutting down the courthouse and we're not stopping civil cases. It's pretty much under control, and it has a lot to do with the judges, too. They just have a real good handle on their calendars," he added.

Despite the initial hardships that may have been caused by the law, Jagels said he believes the statute's long-term effects will be beneficial and downplayed its negative aspects as depicted in the Rand study. "Frankly, I don't think [the study] dwelled much on or gave sufficient weight to the long-term savings that this proposal will create in terms of court time, prosecution time, defense time, investigation and police time," he said.

Federal law nails its first 3-time loser

If ever there was a "perfect poster child" for the Federal "three strikes and you're out" law, it's Tommy Lee Farmer, says the prosecutor who won an indictment of him under the statute that was enacted last fall.

"He has been through the criminal justice system repeatedly and didn't learn his lesson," U.S. Attorney Stephen J. Rapp of the Northern District of Iowa told The New York Times, shortly after Farmer, 43, was sentenced to life in prison for an attempted armed robbery conviction.

Farmer, whose rap sheet goes back to age 16, was the first repeat offender to be sentenced under the Federal three-strikes law. He might have served only eight years for a conviction on state armed robbery charges, but Rapp arranged with local prosecutors to have those charges dropped. Rapp then persuaded a grand jury to indict Farmer for interfering with interstate commerce by committing a robbery, noting that the Hy-Vee supermarket Farmer robbed was part of a multi-state chain.

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Prior Planning Press

Survey says rookies lack the "write" stuff

Field training officers in Southern California who participated in a recent survey gave rookies high marks in firearm skills and tactics, general police procedures and general knowledge of the penal code.

But rookies were generally said to be sorely lacking in communication, report-writing and decision-making skills — deficiencies which could adversely affect their ability to make quality arrests and aid in criminal prosecutions, according to Glendale, Calif., police Lieut. Mark Distaso, who compiled the survey for the Region VI chapter of the National Association of Field Training Officers.

The findings were submitted to the California Commission on Peace Officer Standards and Training, which conducts ongoing reviews of police training programs, sets training standards and approves changes in academy curriculums, Distaso told LEN, to ensure FTO input in any program changes POST might pursue.

Of the 148 FTOs from 27 Southern California police agencies who participated in the survey, 36 said they had major concerns with trainees' report-writing skills, while 25 expressed concern about communication skills. Twenty-two of those polled said they were concerned about recruits' decision-making skills.

A majority of FTOs surveyed — 67 percent — said trainees did not demonstrate the ability to write basic crime reports. When asked whether trainees demonstrated effective writing skills,

56 percent disagreed, and only 39 percent agreed that recruits could effectively interview victims and witnesses.

"We don't know what the core reason is for these findings," said Distaso, a 19-year veteran who previously headed the Glendale Police Department's FTO program. "These are skills and abilities that should have had some kind of development outside the academy framework, through life experience and education.... We can only suggest that they're lacking in these skills in a formal educational environment before they ever get to the academy. The academy is not doing anything to try to remediate that deficit, so it perpetuates."

Distaso, who teaches a report-writing class at a local community college, added that many recruits "have a communication deficit. Without a doubt, they're lacking basic English skills and they also have trouble translating thoughts to paper."

The findings underscore widespread concerns about incoming recruits' lack of basic communications skills, which Distaso said can lead to bigger problems. "The manifestation of the problem is the potential for an excessive amount of time spent on case followup," he said. "The case is compromised because the investigator may not get all the information he needs to solve it.... If it isn't written down [in an officer's initial report], then it might as well not have happened."

At trial, a lack of communication skills might damage an officer's credibility,

ability, added Distaso. "You create doubt and end up with acquittals and mistrials. It leaves officers and police departments open to civil litigation when a defendant sues for arrest without sufficient cause."

The lack of verbal and written skills can affect an officer's ability to make solid decisions in a host of crucial situations that police routinely face, such as making traffic stops or using force. In the survey, FTOs rated the decision-making abilities of recruits among their top concerns. Just over half — 58 percent — said trainees could not effectively control field situations, and even more FTOs — 65 percent — said recruits did not demonstrate the ability to act under stress.

But FTOs gave recruits generally good marks in such areas as recognizing and reacting to threats, making decisions to use force and general knowledge of police procedures and laws. Fifty-four percent agreed that most recruits had the skill to escalate and de-escalate force appropriately, and 54 percent also said trainees were able to recognize and react to potential threats.

The field training officers were almost evenly split about whether trainees have working knowledge of search, seizure and detention laws, with 49 percent agreeing and 51 percent disagreeing. Seventy-three percent said trainees are proficient in searching, controlling and weaponless-defense techniques, 80 percent said trainees were well trained in firearms skills and

tactics, and 72 percent said rookies could perform basic traffic stops.

Seventy-two percent of FTOs said rookies had a working knowledge of the penal code, but 56 percent said recruits' knowledge of motor-vehicle laws was lacking. The survey said that may be due to the fact that some academies don't adequately cover the subject.

The areas in which academies are most in need of improvement, the FTOs said, included report-writing skills, the use of role-playing exercises in training, more stress-management training, and an increased focus on interpersonal skills.

"What's being said here is that academies have to artificially make up for what people lack in life experience," Distaso said. "People have not been confronted with certain situations and the academy ought to create those situations in a controlled academy environment...through role-playing exercises and to put people into situations where they are forced to assess situations."

The POST commission is moving to address some of the concerns raised by field trainers who participated in the NAFTO survey, said Mickey Bennett, the commission's coordinator of academy assessment efforts. He said POST recently increased the minimum level of academy instruction from 560 hours to 664 hours. "That document was one of the things that indicated we needed to add more time to different [training] categories," he told LEN.

Bennett said that many academy programs have introduced video scenarios of hypothetical police situations from which recruits are asked to produce reports on what they observed. "But you also have to understand that if someone doesn't come to us with basic English skills before they get to the police academy, it's difficult for us to teach them. That's a national ongoing problem," Bennett said.

Smaller is better, as portable chemical analysis unit looms

Researchers say they're close to perfecting a portable mass spectrometer, a device that can identify chemical substances but whose uses in law enforcement have been limited by its typically large, cumbersome size.

Currently, the devices are about the size of a refrigerator, but the day is not far off when smaller mass spectrometers that can be easily transported to crime scenes are manufactured, according to researchers.

"It's a really exciting time for mass spectrometry," said Brian Andresen, director of the forensic science center at Lawrence Livermore National Laboratory in California, where a research and development project is under way.

The instrument, which has become a basic tool in forensic science, can be used to determine the presence of illegal drugs, toxic substances and other materials. It breaks down the chemical or material being analyzed into charged ions, each with a measurable amount of kinetic energy. The ions, which sit on a surface with high voltage, are drawn to areas with no electrical charge.

A computer measures the time it takes for ions to move across the surface. The result is entered into an equation along with the initial level of kinetic energy that researchers assign to ions. The computer can then determine the mass of the ions, which is the only remaining unknown variable in the equation. Once the mass is known, a substance can be identified.

Four scientists at Johns Hopkins University's Applied Physics Laboratory have constructed a shoebox-sized version of a mass spectrometer. The

Washington Post reported last month. Sophisticated new electronic devices that allow scientists to measure much smaller differences in time than previously possible have helped pave the way, the researchers told The Post.

The devices can now differentiate between two events that happen one nanosecond — one-billionth of a second — apart. The more accurate the timing, the shorter the distance a particle must travel to be correctly identified, according to Robert J. Cotter, a professor of pharmacology at Johns Hopkins Medical School who is involved in the project.

The researchers at Johns Hopkins say a private firm could manufacture the smaller spectrometer for about \$25,000. At least one company, Viking Instruments of Chantilly, Va., has sold 100 downsized spectrometers to Federal agencies such as the FBI and the Centers for Disease Control.

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Tjaden:

Joining forces for the good of the victim

By Patricia G. Tjaden

When police and child protective services join forces to investigate cases of suspected child abuse, victims and families gain. That's the conclusion of a three-year study conducted by the Denver-based Center for Policy Research. The joint investigations were thorough and efficient, yet protected child victims and their families from the trauma of repetitive interviews by different groups of investigators.

Funded by a grant from the National Center on Child Abuse and Neglect, this writer examined more than 1,800 cases of serious physical and sexual abuse reported to the child protective service agencies in five sites across the country. The sites — Las Vegas, Denver, Colorado Springs, Honolulu, and DuPage County, Ill. — were chosen because they represented a continuum of cooperation between police and child welfare agencies.

In Las Vegas, caseworkers made no concerted effort to coordinate their investigations with the police. In Denver and Colorado Springs, caseworkers attempted to coordinate their investigations of serious physical abuse and sexual abuse reports with the police but often ran into logistical problems when they did so. In Honolulu, the Children's Advocacy Center routinely coordinated the activities of specialized caseworkers and police officers assigned to investigate cases of intrafamilial child sexual abuse. And in DuPage County, investigative teams consisting of a caseworker and a police officer worked together under the auspices of the DuPage County Children's Center to investigate all reports of intrafamilial child sexual abuse.

As part of the study, the records of child protection agencies, the police and the courts were examined for all 1,828 cases in the study sample. From information contained in these records, it could be determined whether a caseworker communicated with a police officer or whether a caseworker and a police officer conducted a joint interview with a third party during the child protective services investigation. If either of these two things happened, the case was

(Patricia G. Tjaden, Ph.D., was project director of the study of joint investigations in child abuse cases. For a copy of the research report, contact: The Center for Policy Research, 1720 Emerson Street, Denver, CO 80218. Tel.: (303) 837-1555.)

A five-city study points to a way of sending a message that society is ready to treat child abuse as a crime rather than as a mere family problem.

categorized as having a joint investigation; if neither happened, it was categorized as having an independent investigation.

Using this classification scheme, the rate of joint investigations was found to vary enormously among the study sites. In Las Vegas, for example, only 23 percent of the serious physical abuse cases resulted in a joint investigation, compared to 43 percent of such cases in Denver. In the sexual abuse cases, the rate of joint investigations ranged from 52 percent in Las Vegas to 97 percent in DuPage County.

The study also looked at case factors that influenced the decision to conduct a joint investigation. Such investigations were most likely to occur when the child abuse report contained allegations of sexual abuse or serious injury, when the victim received emergency medical

treatment at the time of the report, and when the initial child abuse report was made by a law enforcement officer.

Again using information from case records, a comparison was then made of the impact of joint investigations and independent investigations on case processing and outcomes. In general, joint investigations were initiated sooner, lasted longer, and were more thorough than independent investigations. For example, the average number of days elapsing between the child abuse report and the start of the investigation was 1.6 days in joint-investigation cases and 3.3 days in independent investigations. Joint investigations averaged 27 days from start to finish, compared to 21 days for independent investigations. And joint investigations averaged twice as many contacts (phone calls, interviews, staffings) per case than inde-

pendent investigations.

Yet despite their increased length and thoroughness, joint investigations did not result in more repeat interviews with victims or family members. This is critical, since additional interviews have the potential of re-traumatizing the victim, alienating the parents, and tainting the evidence.

The study also found joint investigations resulted in significantly more victim corroborations and perpetrator confessions than did independent investigations. One police officer in DuPage County attributed the increased number of victim corroborations and perpetrator confessions to the element of surprise that is created when both a police officer and a caseworker present themselves at the family's front door. As the officer explained, "It keeps the family from having time to get their story together."

Because joint investigations resulted in more corroborations and confessions, they also resulted in more substantiated allegations, protective custody removals of children, criminal prosecutions and court-enforced treatment plans. These extremely important legal interventions send the message that our society is ready to view child abuse as a crime rather than as a mere family problem.

Letters

Waco's legacy

To the editor:

John Warner's essay on the Congressional hearings on Waco (Forum, Sept. 15, 1995) enlightens us to a particular viewpoint within the law enforcement community that needs further examination. Beyond his contention that the hearings wasted taxpayers' dollars, or that Congress and others can only second-guess tactical and operational decisions, there is the legitimate question of how government agencies are accountable to the American public. Public hearings should be conducted in the public's interest.

Although he acknowledges "serious mistakes made by Federal law enforcement officers," Warner believes the Davidians "staged an armed insurrection against the lawful authority of the United States Government." Warner also speculates that there is no conspiracy on the part of law

enforcement or faulty judgment by the FBI.

I doubt not Mr. Warner's sincerity of beliefs that the situation at Waco was beyond repair, and that in dealing with the crazy Koresh, the outcome was not promising. But for many ordinary Americans not associated with the National Rifle Association, it wasn't David Koresh they feared, but a tyrannical government power they witnessed sucking the life from men, women and children inside the compound by degree. And we are not a better society for it.

The original search warrant was a lie, of course, and led to one of the greatest blunders in law enforcement history. After the initial assault on the compound, the Davidians solaced in their God and Koresh for answers, never again firing their weapons, in spite of the alleged mass arsenal they coveted. Hardly an insurrection. But good judgment and insight were never the order of the day at Waco. FBI culture imbued through

the years with moral certainty under the now-debunked J. Edgar Hoover saw a world of black and white, good guys and bad, and we know that Koresh was the bad guy. Institutional programming quickly becomes culture when oversight is not built into the governing process. Waco, then, was a prescription for failure.

At Waco, the moral mandate didn't lead to greater understanding of the situation or good law enforcement. The relentless psychological warfare used against the Davidians didn't work. The siege tactics employed to cut off supplies to the compound might have worked with someone motivated by somatic interests, who saw the world in the same structured terms as those waiting outside, but that hardly described David Koresh and his followers. When Janet Reno finally gave her ill-conceived consent to gas the compound, she only added to the accumulation of impoverished tactics that resulted in disaster. She said her concern was the children. No doubt the children were more afraid of those outside the compound than of David Koresh.

The time to rethink what law enforcement is about in a democratic society is long overdue. False warrants and SWAT teams are poor solutions for social problems. Psychological warfare intended to degrade people into submission only serves as a reminder of our failure to understand others and act judiciously. Waco stands today as a monument to government ineptitude, not because Koresh was blameless, but because law enforcement is called to a higher standard of moral service in the name of justice. At Waco we lost sight of that. Social justice will not and cannot be ensured by using government force, something all too common today. In the words of Vincent Bugliosi, a former Los Angeles prosecutor, when there is no justice, there is no peace.

JOHN H. LYONS
Cottageville, S.C.

Note to Readers:

The opinions expressed on the Forum page are those of the contributing writer or cartoonist, or of the original source newspaper, and do not represent an official position of Law Enforcement News.



Circling the wagons to save COPS

Top officials of the Department of Justice are circling the wagons to fight off attempts in Congress to repeal the Community Oriented Policing Services (COPS) program, which aims to put 100,000 additional police officers on America's

BURDEN'S BEAT

By Ordway P. Burden

streets. It was a key provision of the 1994 Violent Crime Control and Law Enforcement Act.

Attorney General Janet Reno told the National Association of Police Organizations (NAPO) on Aug. 11, "We cannot let Congress turn back the clock on this historic effort to give you the tools you need."

The Republican majority in the House proposes to repeal the COPS program and use the money for block grants to the states, which may then allocate it as they wish in the field of law enforcement. Reno said that block grants would cut back the number of officers who could be hired because it would be more expensive to administer such grants.

The same day that Reno spoke to the NAPO conference in St. Louis, Assistant Attorney General Andrew Fois was giving the same message to the National Law Enforcement Council in Washington. The NLEC, which I chair, is made up of the executive heads of 15 of the nation's largest law enforcement associations.

Fois said that the Justice Department, and the Clinton Administration as a whole, were united behind the COPS plan, which he said is already becoming a reality. "Based on the input we've gotten from your organizations, it's working in a way that you all think is successful," he noted. "As of this date, there have been grants awarded that have put, or will put, more than 23,000 additional police officers on the streets and roads and in the neighborhoods of this country."

That is a record I think we can all be proud of."

COPS is "under some degree of assault" in Congress, Fois said, "and we look forward to working with you to see that our commitment to it remains a reality."

Police and the Media: How much credit should the police take when the crime rate is dropping? And how much help should police agencies give to news reporters?

Those questions are the focus of a debate in New York City between police reporters and city officials, most notably Mayor Rudolph W. Giuliani. He and Police Commissioner William Bratton have not, in the Mayor's view, received sufficient credit for the remarkable drop in the crime rate — 27.1 percent — since he took office in January 1994.

Professor Charles Bahn of John Jay College of Criminal Justice, which publishes LEN, says the Mayor may be setting a trap for himself. "It's best for police executives or mayors not to take credit or blame for changes in the crime rate," he said, "because often there are a lot of other factors at work, such as demographic changes and changes in the drug distribution industry."

Although John Jay, many of whose students are working police officers, has no formal courses on police relations with the news media, instructors do sometimes get into the subject in the course of other discussions. "One thing we tell students is that if you claim credit for a drop in the crime rate, you are trapped when the rate goes up," Bahn said.

"Another thing we tell them is that the media distorts police work," Bahn added. "The media always looks for the lurid and sensational, to the extent that one of the things you have to teach rookies is that for the most part that's not what policing is about."

But that message is hard to get across. "The media message is so strong, and the rewards of being involved in the lurid and sensational are so great that police officers go out of their way

to be involved, even in dangerous things," Bahn said.

News reporters in New York complain that the Police Department is no longer as cooperative as it was before Mayor Giuliani fired John Miller, a popular Deputy Commissioner for Public Information, and slashed the PR staff from 27 to 9 people. Before that, according to Bahn, the department's public relations people spoon-fed reporters.

"The PR people worked very closely with reporters, often doing their jobs for them," he said. "They would look through the blotters and identify a case they thought might be newsworthy and make the preliminary calls about it. Then, when a reporter came in, the PR people would say 'We have one over in Brooklyn that looks good.'"

With the smaller staff in the public information unit now, that practice is ending. More than that, says Bahn, it's the end of a tradition. "It's a national tradition that the police department, in a sense, prepares next day's story for the reporters. They become tame reporters."

It happens even in small cities, Bahn observed. "The only exception I know is that some small-city newspapers publish the blotter in toto — the whole list of people who were arrested — but almost never do any analysis about crime trends, for example," the professor said. "That's very tame of them, not to do any analysis. You'd think a reporter would be looking for the story behind the story."

But, if a reporter wants to do a crime-trend story in your community, take Professor Bahn's advice: Don't take credit if the trend is favorable. That can backfire.

(Ordway P. Burden is president of the Law Enforcement Assistance Foundation and chairman of the National Law Enforcement Council. He welcomes correspondence to his office at 24 Wyndham Court, Nanuet, NY 10544-3845. Seymour F. Malkin, the executive director of LEAF, assisted in the preparation of this article.)

Black, white & shades of gray:

Columbus sails the seas of minority recruitment

A top police official in Columbus, Ohio, is optimistic that a recent entry-level police exam will boost the minority-group ranks in the 1,600-officer agency.

More than 4,800 people — about 24 percent of them minorities — signed up to take the test, which was administered early last month, said Cmdr. Jerry Perrigo, who heads the business/personnel bureau of the Columbus Division of Police. Perrigo could not say how many minorities actually showed up to take the Civil Service test, but noted that the number who had signed up "was higher than we've ever had before."

The division has been under fire from a black officers group for not trying hard enough to attract more minorities to the force, which is about 14.4 percent minority compared to a 22-percent ratio within the city population. "That is our goal — to get to 22 percent," Perrigo told Law Enforcement News.

A report on the agency's hiring practices that was presented in June by a three-member independent panel, which included former Police Foundation president Patrick V. Murphy, also criticized the division's efforts to bring on more minority officers, particularly the practice of going outside the central Ohio area to recruit them. "The panel rejects the proposition that in order to attract a qualified pool of minority applicants, minority recruiting must go outside the geographic area," the report said.

Police Chief James G. Jackson, who is black and who helped set up the recruitment unit in 1973, has insisted it is necessary for recruiters to go outside the Columbus area to boost the number of minority officers. In a response to a

memo from Public Safety Director Thomas W. Rice, in which Rice expressed concern about the low number of black candidates in the most recent police classes, Jackson said he has always believed "there were insufficient numbers of blacks within central Ohio who had the ability and desire to become Columbus police officers."

James Moss, president of the group Police Officers for Equal Rights, blasted Jackson's comment, telling LEN: "It's sad that a black person would make a comment like that."

Moss, a retired lieutenant, charged that racism and a "good ol' boy" attitude still exist in the Police Division, even though it has a black chief.

"We have to change the leadership," Moss said. "Chief Jackson is from the old school and we feel that he doesn't have the leadership or managerial skills to lead the Police Division. He's forgotten how he got to the top. You have to create a better atmosphere in order to get people to want to join the organization."

Black applicants have always been rejected by the Police Division "at higher rates than whites for technicalities," Moss said, adding he supports the independent panel's recommendation that background investigations be conducted by civilians "with extensive law enforcement experience."

"You've got to get [background investigations] out of the hands of the Police Department," he said. "Police officers have certain images of what they think police officers should be. They grade [prospective recruits] differently than a civilian would. We need somebody who will give everybody a fair chance."

According to Safety Department figures, Rice told LEN, police recruit-

ers made 20 recruiting trips in the past year, 14 of them outside Ohio, including Michigan, Kentucky, Pennsylvania and two to East Coast military bases. Two of the trips, added Commander Perrigo, were to predominantly black colleges in Ohio and Michigan.

Rice said he agrees with Jackson on the need to recruit outside the central Ohio area to get more minority applicants. But in his memo to Jackson, which noted that only six of the 77 candidates in the last two Police Academy classes were black, he "strongly recommended" that the agency establish a minority recruitment section and assign a minority lieutenant to run it.

Jackson told Rice he believes a minority recruitment section is unnecessary and that the division's two black lieutenants are not interested in being

assigned to such a unit. Changing the recruiting section would require an agreement with the local Fraternal Order of Police, he said.

FOP president Michael Tanner said he had informed city officials that the group would be willing to make the changes necessary to form a minority recruitment section. "The Chief is the one who didn't want to do it," he told LEN. "He will maintain that the recruiting unit has always been a minority recruiting unit. You don't need to recruit white males and females because they're getting plenty of them."

Perrigo said city and police officials are reviewing the independent panel's recommendations, which include ending the Police Division prac-

tice of keeping files on unsuccessful applicants, and administering polygraph tests only after all other pre-employment screening had been completed "and only in cases where serious unresolved questions remained."

The panel also said the Police Division should develop a mission statement and that the city should establish high standards for police candidates "and clearly communicate those standards, basing removals [from Civil Service lists] on these more realistic police standards."

Rice said city officials are in discussions with a private consultant to develop a new set of selection criteria and develop a mission statement for the Police Division.

POLICE PATROL OFFICER

Kettering, Ohio (Pop. 61,000)

The City of Kettering is accepting applications from experienced Police Officers (only), through its Lateral Entry Program for consideration to fill current and future Patrol Officer vacancies. The Kettering Police Department is an accredited agency with a national reputation for excellence.

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DNA testing turns a corner as forensic tool

Continued from Page 1

consent, Strange said DNA testing is a safeguard because the prosecution usually does not know what the defense will argue until a trial begins. "Just because you think consent is going to be the defense, it doesn't necessarily mean that it will be. It may be denial."

With the possibility that prosecutors could put the wrong man behind bars if they can get a rape conviction based solely on eyewitness identification, most will order the DNA tests, even if means extra cost and time. "They want justice, not necessarily a victory," Strange said.

To date, DNA testing has exonerated about two dozen men convicted of rape, which may be another incentive for prosecutors to order the tests. According to the National Association of Criminal Defense Lawyers, those men exonerated — some of whom were in prison for more than 10 years — were all convicted of rape on the basis of eyewitness testimony.

Dr. Elizabeth Loftus, a professor of psychology at Washington State University who has published several studies on the reliability of eyewitness identification, said the FBI statistics that show one-third of eyewitness identifications may be wrong, reinforce what she has long suspected.

"It's been in this recent development with DNA evidence that we have discovered just how many people there are who we can clearly exclude and clearly show how wrong those eyewitness identifications are."

But the statistics still seem overwhelming to the expert. "That's amazing," Loftus said. "I didn't realize it was this high."

According to Loftus, several factors can lead to the wrong person being charged with a crime after eyewitness identification, including the natural unreliability of human perception and memory, and the tendency for people to give too much weight to eyewitness testimony. One factor that is a cause for concern in law enforcement is the potential for eyewitnesses to be susceptible to suggestion from police.

whether intentional or unintentional.

"There is pressure that comes from the police that want to see the crime solved, but there is also a psychological pressure that is understandable on the part of a victim who wants to see the bad guy caught and wants to feel that justice is done," Loftus told LEN.

To ensure that the correct suspect is charged, Loftus recommends that police ask open-ended questions when interviewing rape victims and avoid specific or leading questions. "That kind of technique will get you more accurate information but it will not be complete because the victim on her own may leave out a lot of crucial information," she said.

Once the victim has answered open-ended questions, Loftus said police should then ask specific questions to possibly identify a suspect. But if either a photo or a live lineup is arranged for the victim, police must make sure that the suspect is not the only person in the lineup that matches the description given by the victim.

Kate Germond, an investigator with the Centurion Society, a nonprofit organization in Princeton, N.J., that works to vindicate people they suspect were wrongly convicted of crimes and face life sentences or execution, said the FBI statistics demonstrate that eyewitness identification alone should never be sufficient to convict someone of rape.

"We think victim identification should be the weakest link in a case and instead it turns out to be the strongest. When [victims] get it right it should be a miracle, not that we shouldn't be shocked when they get it wrong," she told LEN.

Germond said she is hopeful that with prosecutors ordering DNA testing in most cases, it will become rare for someone to be wrongly convicted of rape. But a number of factors make it difficult to overturn previous convictions. Since most states don't mandate that evidence be saved after a verdict is rendered in a trial, it may be impossible to overturn a conviction if blood or semen evidence from a crime scene is destroyed.

"Sometimes out of just pure luck the samples are retained," said Dr. Lawrence Kobilinsky, a forensic serologist and associate provost at John Jay College of Criminal Justice. Kobilinsky said the samples should be retained cold or frozen, but often they are stored at room temperature in a warehouse. Yet even if blood and semen samples deteriorate because of poor storage, Kobilinsky said, DNA testing can often get results despite the condition of the sample.

Meeting the demands

With DNA becoming the most sought-after evidence in rape cases, many challenges lie ahead — not only for DNA laboratories, but for police department criminalists who must carefully collect sensitive physical evidence from crime scenes without contaminating the samples.

Analyzing 2,000 to 2,500 samples for DNA each year, the FBI laboratory leads the testing effort, accepting samples from state and local prosecutors across the country, in addition to conducting tests for Federal agencies.

Jenifer Lindsey, chief of the FBI's DNA Analysis Unit, said the bureau continues to run DNA tests for any jurisdiction that requests the agency's help, but she said jurisdictions in states that have adequate state and private laboratories are told to first try their own labs.

"We have kind of cut off some states and asked them to use their own state systems," she said. "We have always made exceptions and for a variety of reasons, most of them being the state lab couldn't get to it or there was some FBI involvement or it was a multi-state case."

Eighteen states — Alabama, Arizona, California, Florida, Georgia, Illinois, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Jersey, New York, North Carolina, Pennsylvania, South Carolina, Texas and West Virginia — have access to state or private labs.

Strange, of the National District Attorneys' Association, said many jurisdictions prefer to use private laboratories.

laboratories because they can conduct the tests more quickly than the FBI, but the advantage of the FBI lab is that it is free. DNA testing at state and private labs can cost several thousand dollars.

As effective a courtroom tool as DNA testing can be, the tests sometimes are not useful or can be difficult to conduct if evidence is not carefully collected from a crime scene. Lindsey said it is essential for police departments to thoroughly train their officers on how to properly handle evidence at a crime scene to reduce the risk of contaminating samples.

"Those are the first people that need to know what they're doing and if you have a good evidence-collection team and you're not using them, that is a big risk because you are going to risk losing the evidence that you need to solve your case," Lindsey said.

Beyond 2000

In 1994, Congress passed legislation that will shape the future of DNA testing, ensuring increased funding and uniform standards in years to come. The Federal crime-control act should provide \$25 million to the FBI lab and \$25 million to state and local labs by the year 2000, while the DNA Identification Act authorized the National Institute of Justice to oversee proficiency testing for the DNA labs and decide how much money will go to each lab.

Until Nov. 30, NIJ will accept applications from state and local governments for the first round of grants

to fund their labs. Up to \$750,000 will be available to each lab to "develop or improve forensic DNA testing capabilities."

The DNA Act directed NIJ to consider developing blind proficiency testing for both public and private DNA labs, where forensic scientists at the lab would be given known samples and expected to achieve the proper results.

Kobilinsky said blind proficiency testing is needed to ensure that all labs stay on the same level in the future. "It's going to cost the taxpayer some dollars, but in the long run it's going to be worth it," he said.

In coming years, Kobilinsky said he expects increased use of computers in the labs and automated testing, which will reduce the cost and the amount of time needed to run the tests.

But no matter how advanced testing becomes, he warns, there is always a chance for human error. "Nothing is infallible, and wherever you have humans involved there is human error. There have been reported cases of human error in DNA as well, so we have to be on guard for that."

[For more on DNA testing, see LEN Oct. 31, 1992; Oct. 15, 1992; March 15, 1992; Jan. 31, 1989.]

Coming up in LEN:

A long time at the top — a special interview with one of America's longest serving police chiefs.

Boston supervisors see red over integrity edict

Continued from Page 1

as a police department is critical towards that neighborhood trust and partnership," Evans said.

Evans disclosed that there are ongoing police corruption investigations being conducted by the agency, but added that "the vast majority of our officers adhere to the highest ethical standards and integrity."

The Superintendent called the policy a preventive effort to underscore to its officers the department's no-nonsense stance on rooting out corruption. "One of the concerns police officials have throughout the country is that as we move towards neighborhood policing, we're getting our officers close to the public, and that's where we want them. But that has historically raised the issue of if they get too close, then what? So we're putting out guidelines. It's prevention."

Sources told LEN that there is virtually nothing new in the directive, which became effective Aug. 30. Nearly all of the procedures existed previously, scattered throughout thousands of pages of department policies and regulations. But for the first time, Evans' directive put all of the agency's edicts against corruption — including definitions and the ethical responsibilities of supervisors and officers to report corrupt activities among colleagues — together in one document.

In an effort to discourage the "blue wall of silence" that is blamed for contributing to conditions that allow corruption to fester, the policy requires "all employees" to report colleagues whom they know to be involved in

corrupt or unethical activities. But it warns that "the command staff and supervisors may be personally accountable for the actions of the personnel under their command if they knew or should have known that their actions were illegal or unethical. This places upon them a specific duty to proactively prevent, detect, expose and punish improper conduct."

"When does responsibility stop?" Broderick said. "If we were going to hold everyone responsible, there would be no command structure left."

Broderick also took issue with some of the wording in the document, including a passage that outlines the role of the agency's Internal Affairs Division, which it said "is responsible for the administrative investigation of all violations of the law," and for "monitoring complaint histories of all officers to identify and address those...who may have developed a pattern of troublesome behavior, or who may be unfit or unsuitable for particular assignments."

"If there's 'troublesome behavior,' it shouldn't be allowed to go on for so long as to become a pattern," Broderick commented.

Broderick said the federation had filed a charge with the Massachusetts Labor Relations Commission because the policy constituted a "failure to bargain issue by changing the conditions of employment without going through the bargaining process." The federation may seek injunctive relief if it determines that any of its members are "adversely affected" by the policy, he added.

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Upcoming Events

OCTOBER

22-28. Providing Executive Protection.

Presented by the Executive Protection Institute. Winchester, Va.

23-25. The Reid Technique of Interviewing & Interrogation.

Presented by John E. Reid & Associates. Seattle. \$520.

23-25. Street Survival '95.

Presented by Calibre Press. Oklahoma City. \$179/\$155/\$105.

23-26. Comprehensive Staff Inspections Training.

Presented by the Institute of Police Technology & Management. Jacksonville, Fla. \$450.

23-27. High-Risk Warrant & Raid Operations.

Presented by Rollins College. Orlando, Fla. \$435.

23-27. Computerized Collision Diagramming.

Presented by the Institute of Police Technology & Management. Jacksonville, Fla. \$695.

23-27. Undercover Drug Enforcement Techniques.

Presented by the Institute of Police Technology & Management. Jacksonville, Fla. \$525.

23-27. Criminal Investigative Techniques.

Presented by the Institute of Police Technology & Management. Jacksonville, Fla. \$450.

23-27. Field Training Officers Program.

Presented by the Northwestern University Traffic Institute. Evanston, Ill. \$550.

23-27. Successful Grantsmanship.

Presented by the Northwestern University Traffic Institute. Evanston, Ill. \$550.

23-Nov. 3. Advanced Accident Investigation.

Presented by TEEEX — Law Enforcement & Security Training Division. Amarillo, Texas. \$475.

23-Nov. 3. Advanced Traffic Accident Investigation.

Presented by the Institute of Police Technology & Management. Jacksonville, Fla. \$595.

24-26. The Reid Technique of Interviewing & Interrogation.

Presented by John E. Reid & Associates. Charleston, S.C. \$520

24-27. Counter-Drug Law Enforcement: Applied Technology for Improved Operational Effectiveness.

Presented by the Office of National Drug Control Policy. Nashua, N.H.

25. Sexual Harassment Prevention.

Presented by Public Safety Training Inc. Oak Harbor, Mich.

26-27. Police Ethics Conference.

Presented by the Southwestern Law Enforcement Institute. Dallas. \$35/\$50.

26-27. Narcotic & Drug Investigations.

Presented by Hutchinson Law Enforcement Training. Granby, Conn. \$175.

30-Nov. 1. Administration, Management & Supervision of the Field Training Officer Program.

Presented by the Institute of Police Technology & Management. Jacksonville, Fla. \$375.

30-Nov. 1. Street Survival '95.

Presented by Calibre Press. Spokane, Wash. \$179/\$155/\$105.

30-Nov. 1. Mechanics of Drug Interdiction.

Presented by Rollins College. Orlando, Fla. \$295.

30-Nov. 3. Burglary Investigation Fundamentals.

Presented by the Northwestern University Traffic Institute. Evanston, Ill. \$600.

30-Nov. 3. Traffic Accident Reconstruction II.

Presented by the Northwestern University Traffic Institute. Evanston, Ill. \$625.

30-Nov. 3. Traffic Radar Instructor Training.

Presented by the Northwestern University Traffic Institute. Evanston, Ill. \$550.

30-Nov. 3. Criminal Investigative Analysis.

Presented by the Montgomery County Department of Police. Rockville, Md. \$435.

30-Nov. 3. Internal Affairs & Ethics.

Presented by the Southwestern Law Enforcement Institute. Dallas. \$295/\$395.

NOVEMBER

1. Criminal Justice Grantsmanship.

Presented by Justice Planning & Management Associates. San Antonio, Tex. \$150

1-3. The Reid Technique of Interviewing & Interrogation.

Presented by John E. Reid & Associates. Cleveland, Ohio. \$520.

2. Casco Expandable Baton Instructor Course.

Presented by R.E.B. Security Training. Middletown, Conn.

2-3. Raid Planning, Preparation & Execu-

tion.

Presented by Hutchinson Law Enforcement Training. Cheshire, Conn. \$175.

2-3. Background Investigation for Police Applicants.

Presented by Harvey, Ward & Associates. Redmond, Wash.

3. Criminal Justice Grantsmanship.

Presented by Justice Planning & Management Associates Denver, Colo. \$150.

3. Oleoresin Capsicum Aerosol Instructor Training.

Presented by R.E.B. Security Training. Middletown, Conn.

4-7. Problem-Oriented Policing Conference.

Presented by the Police Executive Research Forum. San Diego. \$295.

6-7. Total Quality Management: Concepts, Tools & Techniques.

Presented by the New England Institute of Law Enforcement Management. Wellesley, Mass.

6-7. Risk Management: Deadly Force & Pursuit Driving Policy.

Presented by the Southwestern Law Enforcement Institute. Dallas. \$145/\$195.

6-8. The Reid Technique of Interviewing & Interrogation.

Presented by John E. Reid & Associates. Boston. \$520.

6-8. The Reid Technique of Interviewing & Interrogation.

Presented by John E. Reid & Associates. Colorado Springs, Colo. \$520.

6-8. The Reid Technique of Interviewing & Interrogation.

Presented by John E. Reid & Associates. Hartford, Conn. \$520.

6-10. Drug Unit Commander Seminar.

Presented by the Institute of Police Technology & Management. Jacksonville, Fla. \$450.

6-10. Leading Law Enforcement Into the 21st Century.

Presented by the Institute of Police Technology & Management. Jacksonville, Fla. \$495.

6-10. Investigation of Pedestrian Accidents & Human Factors.

Presented by the Institute of Police Technology & Management. Phoenix. \$450.

6-10. Investigative Photography I.

Presented by the Northwestern University Traffic Institute. Evanston, Ill. \$500

6-17. Police Motorcycle Instructor Course.

Presented by the Institute of Police Technology & Management. Jacksonville, Fla. \$1,100.

6-17. Advanced Traffic Accident Reconstruction.

Presented by the Institute of Police Technology & Management. Jacksonville, Fla. \$595.

7-9. Street Survival '95.

Presented by Calibre Press. Toronto, Ontario. \$179/\$155/\$105.

8. Criminal Justice Grantsmanship.

Presented by Justice Planning & Management Associates. San Francisco. \$150.

8-9. Management of Aggressive Behavior.

Presented by R.E.B. Security Training. Middletown, Conn.

9-10. Confidential Informants Operations.

Presented by Hutchinson Law Enforcement Training. Granby, Conn. \$175.

10. Criminal Justice Grantsmanship.

Presented by Justice Planning & Management Associates. Portland, Ore. \$150

11-12. Advanced Private Investigator Seminar.

Presented by the Investigative Training Institute. Annapolis, Md.

12-19. 36th International Drug Conference.

Presented by the International Narcotic Enforcement Officers Association. West Palm Beach, Fla.

13-15. Street Survival '95.

Presented by Calibre Press. Danvers, Mass. \$179/\$155/\$105.

13-15. The Reid Technique of Interviewing & Interrogation.

Presented by John E. Reid & Associates. Los Angeles. \$520

13-15. Firearm Alternative Survival Tactics.

Presented by Modern Warrior Inc. Lindenhurst, N.Y.

13-17. Police Internal Affairs.

Presented by the Institute of Police Technology & Management. Jacksonville, Fla. \$450.

13-17. Verbal Judo: Training the Trainer.

Presented by the Institute of Police Technology & Management. Jacksonville, Fla. \$525.

13-17. DWI Instructor Course.

Presented by the Institute of Police Technology & Management. Jacksonville, Fla. \$450.

North East Multi-Regional Training and Aurora University (Aurora Illinois) present the training program: Cultural Diversity: An Integral Part of Community Oriented Policing

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For further information:

(Addresses & phone/fax numbers for organizations listed in calendar of events.)

Calibre Press, 666 Dundee Rd., Suite 1607, Northbrook, IL 60062-2727. (800) 323-0037.

Executive Protection Institute, Arcadia Manor, Rte. 2, Box 3645, Berryville, VA 22611. (703) 955-1122.

Hutchinson Law Enforcement Training, LLC, P.O. Box 822, Granby, CT 06035. (203) 653-0788.

Institute of Police Technology & Management, University of North Florida, 4567 St. Johns Bluff Rd. So., Jacksonville, FL 32216. (904) 646-2722.

International Narcotic Enforcement Officers Association, 112 State St., Suite 1200, Albany, NY 12207-2023. (518) 463-6232.

Investigation Training Institute, P.O. Box 669, Shelburne, VT 05482. (802) 985-9123.

Investigative Training Institute, 621 Ridgeley Ave., Suite 100, Annapolis, MD 21401. (800) 828-0317.

Investigator's Drug School, P.O. Box 1739, Fort Lauderdale, FL 33312. Fax (305) 753-9493.

Justice Planning & Management Associates, P.O. Box 5260, Augusta, ME 04332 (207) 582-3269.

Modern Warrior Inc., 711 N. Wellwood

Ave., Lindenhurst, NY 11757. (516) 226-6383.

Montgomery County Department of Police, Attn: Skip Baylor, Central Crime Analyst, 2350 Research Blvd., Rockville, MD 20850. (301) 217-4015. Fax: (301) 217-4286.

National Criminal Justice Training & Assessment Institute, Raleigh, NC. (919) 787-4757. Fax: (919) 787-9236.

New England Institute of Law Enforcement Management, P.O. Box 57350, Babson Park, MA 02157-0350. (617) 237-4724

Northwestern University Traffic Institute, 555 Clark St., P.O. Box 1409, Evanston, IL 60204. (800) 323-4011.

Office of National Drug Control Policy, c/o Computer Sciences Corp., P.O. Box 2260, Sierra Vista, AZ 85636.

Pennsylvania State University, Attn: Carolyn Andersen, 225 Penn State Scenicron, University Park, PA 16802-7002. (814) 863-5140. Fax: (814) 863-5190.

Performance Dimensions Inc., P.O. Box 502, Powers Lake, WI 53159-0502. (414) 279-3850. Fax: (414) 279-5758.

Police Executive Research Forum, POP Conference, 1120 Connecticut Ave. N.W., Washington, DC 20004. (202) 347-1400. Fax: (202) 347-1400.

West Valley City Police Department, Attn: Lieut. Kelly Davis, 3600 South Constitution Blvd., West Valley City, UT 84119. (801) 963-3364. Fax: (801) 963-3333.

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Who is hurt by "3 strikes" laws?

Tougher sentencing is being credited for decreases in crime, while some parts of California are experiencing criminal-justice system gridlock. **Page 1.**

A new age dawns for DNA testing:

Amid a growing demand for genetic analysis, the Federal Government opens the funding pipeline to develop new labs and boost proficiency. **Page 1.**

A matter of write & wrong:

Police rookies are said to lack communications skills. **Page 7.**

Garbage in, garbage out:

Mississippi police enlist the aid of trash collectors to spot crime. **Page 5.**

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